**S.B.Civil Writ Petition NO.6988/2003**

**Shanti Devi**

**vs**

**Balwant Singh & Anr.**

**DATE OF ORDER** : - 4.2.2005

**HON'BLE MR. PRAKASH TATIA,J.**

Mr. S.D.Vyas, for the petitioner.

**<><><>**

Heard learned counsel for the petitioner.

The petitioner is aggrieved against the order dated 6.12.2002 by which petitioner's application filed under Order 11 Rule 12 read with Section 151 CPC was dismissed by the trial court. The petitioner sought production of income tax return from the non-petitioner as according to petitioner, the petitioner is not the tenant of the non-petitioner plaintiff and to prove this fact, the petitioner sought production of income tax return of the non-petitioner. The trial court rejected the petitioner's application on the ground that plaintiff-non-petitioner in his reply stated that he did not submit any income tax return and on the ground that provisions of Civil Procedure Code are not applicable to the cases, which are filed under the provisions of Rajasthan Rent Control

Act, 2001.

According to learned counsel for the petitioner, the order of the trial court is absolutely non-speaking, perverse and contrary to the law. Learned counsel for the petitioner submits that Section 21 of the Rajasthan Rent Control Act, 2001 clearly provides that Rent Tribunal shall have same power as vested in the Civil Court under the Civil Procedure Code and in clause (b) of sub-section (3) of Section 21 it is clearly mentioned that the tribunal shall have power to order requiring the discovery and production of the document, despite this, the court below has passed the order that since Civil Procedure Code has no application, therefore, the documents cannot be summoned.

I considered the submissions of learned counsel for the petitioner and perused the impugned order as well sub-section (3) of Section 21. The sub-section (3) of Section 21 of the Act of 2001 starts with the words that the Rent Tribunal and the Appellate Tribunal shall not be bound by the procedure laid down by the Civil Procedure Code of 1908. It is clear from the sub-section (3) itself that though the Civil Procedure Code has not been made applicable, but at the same time, principles of natural justice has been made applicable and it has been provided under sub-section (3) of Section 21 of the Act of 2001 that the tribunal shall have all the powers as are vested in Civil Court under the Civil

Procedure Code while trying the suit or an appeal in respect to the matters, which includes requiring the discovery and production of the document. So far as contention of learned counsel for the petitioner that the tribunal has power to require discovery and production of the document is concerned, it is very much with the Rent Control Tribunal despite the fact that the tribunal is not bound by the procedure as provided in CPC.

I perused the reply filed by the defendant, copy of which is placed on record as Annex.4. The non-petitioner in reply to the petitioner's application stated that nothing can be proved by the return and he, thereafter, submitted that the plaintiff-non-petitioner has no returns with him. In these facts and circumstances the petitioner can take benefit in the trial and may cross-examine the non-petitioner and he may make a request for drawing adverse inference against the non-petitioner, which may be considered by the trial court and if any case will be made out, the trial court may draw adverse inference against the non-petitioner. Not only this, but the petitioner shall have also right to challenge the impugned order dated 6th Dec., 2003 in appeal in case any occasion arises for the petitioner to do so. Even if it is an error of law, which has been committed by the tribunal, this court is not inclined to interfere in the impugned order dated 6.12.2003 while exercising powers under Article 227 of the Constitution of India looking

to the facts of the case where the suit has been filed by the landlord claiming himself to be the landlord of the petitioner-defendant.

In view of the above, the writ petition of the petitioner is dismissed having no merit.

**(Prakash Tatia), J.**

c.p.goyal/-